IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9477 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NAVNITRAM MANCHHURAM

Versus

DISTRICT COLLECTOR SURAT

Appearance:

1. Special Civil Application No. 9477 of 2004
MR KK TRIVEDI for Petitioner No. 1-2
NOTICE SERVED BY DS for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 17/08/2004

ORAL JUDGEMENT

Rule. Shri Sood, learned AGP waives service of Rule on behalf of the respondents. With the consent of the parties, the matter is taken up for final hearing today.

2. In this petition under Article 226 of the Constitution of India the petitioners have prayed for an

appropriate writ, direction, or order directing the District Collector, Surat, to issue order removing restrictions under Section 43 of the Bombay Tenancy & Agricultural Lands Act and for conversion of the land of survey No. 304 Paiki, Block No. 286/2 of Village Pal, District Surat, from new tenure to old tenure for non-agricultural purpose. Shri KK Trivedi, learned advocate appearing for the petitioners had submitted that the District Collector has already passed an order on 25th February 2004 with regard to removing the restrictions under Sec. 43 of the Act for converting the land from new tenure to old tenure after obtaining necessary approval from the State Government and the petitioners were directed to pay an amount of Rs. 18,16,802 within a period of 21 days towards premium and pursuant to the said order the petitioner has already paid/deposited the said amount of Rs. 18,16,802 on 3rd March and 10th March 2004 by two instalments and has also produced necessary challan with regard to payment before the respondent No.1 and though the petitioner has paid the amount of premium the respondent No.1 was not issuing any final order in favour of the petitioners of removing the restriction under Section 43 of the Act and converting the land from new tenure to old tenure.

3. In response to the notice issued by this Court, Shri Sood, learned AGP appears on behalf of the respondents. He has submitted that because fo some interpretation with regard to resolution issued by the State Government it has taken time and the final roder was not issued. However, there was no other intention in not issuing the final order.

4. Considering the facts and circumstances of the case and considering the fact that an order is already passed by the Collector on 25.2.2004 converting the land from new tenure to old tenure and removing the restrictions under Section 43 of the Act, and further considering the fact that the petitioners have already deposited Rs. 18,16,802 towards premium pursuant to the order dated 25.2.2004 on 3rd March and 10th March 2004 and in view of the fact that the said order is in existence, the respondent No.1 is directed to issue a final and consequential order removing the restriction under Section 43 of the Act within a period of two weeks from the date of receipt of this order. The petition is allowed accordingly. Rule is made absolute to the aforesaid extent with no order as to costs. D.S. is permitted.

rmr. [M.R. Shah, J.]